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16 ANGOSS SOFTWARE
17 CORPORATION

18 UNITED STATES DISTRICT COURT

19 FOR THE NORTHERN DISTRICT OF CALIFORNIA

20 SAN FRANCISCO DIVISION

21 ANGOSS SOFTWARE CORPORATION,

22 Plaintiff,

23 vs.

24 SIEBEL SYSTEMS, INC.,

25 Defendant.

26 Case No. 05-5224 BZ
(consolidated with Case No. 05-5225 BZ)

27 **[PROPOSED] STIPULATED
28 PROTECTIVE ORDER**

The Honorable Bernard Zimmerman

29 **PROTECTIVE ORDER**

30 The following Protective Order shall apply in the above-captioned action:

31 1. **PURPOSE**

32 It is the purpose of this Protective Order to allow the parties to have reasonable access
33 to information from other parties while protecting confidential trade secrets or other commercially
34 valuable information without frequently resorting to determinations of discoverability by the Court.

1 2. DEFINITIONS

2 2.1 Party: "Party" means Siebel Systems, Inc. and Angoss Software Corporation.
3 Any other party to this litigation may sign this Protective Order and have access to materials
4 exchanged in this litigation pursuant to the terms of this Protective Order.

5 2.2 Discovery Material: "Discovery Material" means any information,
6 document, or tangible things, responsive to discovery requests, or subpoenas or subpoenas duces
7 tecum, deposition testimony or transcript, including material which is voluntarily produced, and any
8 other similar materials, or portions thereof.

9 2.3 Confidential Information: "Confidential Information" is defined herein as
10 material which constitutes or contains proprietary information, confidential business information, or
11 other information which is not publicly known.

12 2.4 Attorneys' Eyes Only Information: "Attorneys' Eyes Only Information" is
13 defined as Confidential Information which concerns or relates to either a trade secret within the
14 meaning of the Uniform Trade Secrets Act asserted by a Party, or information not otherwise
15 disclosed publicly by a Party, except in confidence, including, highly sensitive financial information
16 or other information which will harm a Party's competitive position if it becomes known to person
17 or party other than the producing Party.

18 2.5 Receiving Party: "Receiving Party" means a Party to this action that
19 receives Discovery Material from a Producing Party or Producing Third-Party.

20 2.6 Producing Party: "Producing Party" means a Party to this action or any
21 Third Party, and all directors, employees and agents (other than Counsel) of the Party that produces
22 or otherwise makes available Discovery Material to a Receiving Party.

23 2.7 Protected Material: "Protected Material" means any Discovery Material
24 that is designated as Confidential or Attorneys' Eyes Only in accordance with paragraphs 2-3 and
25 2.4 below, and any copies, abstracts, summaries, or information derived from such Discovery
26 Material, and any notes or other records regarding the contents of such Discovery Material.

1 2.8 Counsel: “Counsel” means any attorney representing any Party herein,
 2 and their respective secretarial and other assistants who are not employed by a Party and to whom it
 3 is necessary to disclose Protected Material for the purpose of this action.

4 2.9 Independent Expert: “Independent Expert” means an expert and/or
 5 independent consultant actually retained or employed to advise or to assist Counsel in the
 6 preparation and/or trial of this action. Rules concerning Independent Experts are further stated at
 7 paragraph 5.1 below.

8 3. DESIGNATION OF PROTECTED MATERIAL

9 3.1 Designation of Confidential Information: Any portion of any document or
 10 oral testimony produced or given in this action that is asserted by the Producing Party to contain or
 11 constitute Confidential Information shall be so designated by such Producing Party. Each such
 12 document or transcript of testimony shall be clearly and prominently marked on its face with the
 13 legend “CONFIDENTIAL INFORMATION OF (Producing Party’s name)” or other comparable
 14 notice. Each page ~~of a document containing~~ ^{or by a group,} constituting Confidential Information shall be
 15 marked “CONFIDENTIAL INFORMATION OF (Producing Party’s name)” or other comparable
 16 notice. Any page not so marked shall not be subject to the terms of this Order which apply to such
 17 material. Transcript pages containing or constituting Confidential Information shall be separately
 18 bound by the court reporter and marked “CONFIDENTIAL INFORMATION” on each page. If the
 19 Receiving party wishes to show non-Confidential portions of a document or transcript containing
 20 Confidential Information to a person or Party not described below in paragraph 4.2, it shall first
 21 redact all pages marked as containing Confidential Information.

22 3.2 Designation of Attorneys’ Eyes Only Information: Any portion of any
 23 document or oral testimony produced or given in this action that is asserted by the Producing Party
 24 to contain or constitute Attorneys’ Eyes Only Information shall be so designated by the Producing
 25 Party. Each such document or transcript of testimony shall be clearly and prominently marked on
 26 its face with the legend “CONFIDENTIAL INFORMATION OF (Producing Party’s Name)—
 27 ATTORNEYS’ EYES ONLY” or other comparable notice. Each page of a document containing or

1 constituting Confidential Information shall be marked "CONFIDENTIAL INFORMATION OF
 2 (Producing Party's name)—ATTORNEYS' EYES ONLY" or other comparable notice. Any page
 3 not so marked shall not be subject to the terms of this Order which apply to such material.
 4 Transcript pages containing or constituting Attorneys' Eyes Only Information shall be separately
 5 bound by the court reporter and marked "ATTORNEYS' EYES ONLY" on each page. If the
 6 Receiving party wishes to show non-Attorneys' Eyes Only portions of a document or transcript
 7 containing Attorney Eyes Only Information to a person or Party not described below in paragraph
 8 4.3, it shall first redact all pages marked as containing Attorneys' Eyes Only Information.

9 3.3 Designation of Non-Paper Media: Any Confidential or Attorneys' Eyes
 10 Only Information produced in a non-paper media (e.g. videotape, audiotape, computer disk, etc.)
 11 may be designated as Confidential or Attorneys' Eyes Only Information by labeling the outside of
 12 such non-paper media as "CONFIDENTIAL INFORMATION OF (Producing Party's Name)" or
 13 "CONFIDENTIAL INFORMATION OF (Producing Party's Name)—ATTORNEYS' EYES
 14 ONLY" or other comparable notice. In the event a non-producing party generates any "hard copy,"
 15 transcription, or printout from any such designated non-paper media, such party must immediately
 16 stamp each page "CONFIDENTIAL" or "CONFIDENTIAL—ATTORNEYS' EYES ONLY," and
 17 the hard copy, transcription or printout shall be treated as Confidential or Attorneys' Eyes Only
 18 Information.

19 Any software, firmware or source code listing produced in a non-paper media
 20 designated as Confidential Attorneys' Eyes Only as defined above shall only be used, viewed,
 21 loaded or run on a standalone, password-protected, non-networked computer secured within the
 22 facilities of the Receiving Party's Counsel of record at one, single location. Any and all printouts or
 23 other use from such non-paper media shall immediately be stamped and marked as Confidential
 24 Information of [Producing Party]—Attorneys' Eyes Only.

25 3.4 Designation on Protected Material: Any person who creates Protected
 26 Material based upon or derived from Discovery Material shall label such Protected Material as
 27 Attorneys' Eyes Only if any of such Discovery Material was so labeled; if not, then as Confidential

1 if any of such Discovery Material was so labeled. In other words, the labeling of Protected Material
 2 shall be the most restrictive labeling of any Discovery Material upon which the Protected Material is
 3 based on or derived from.

4 4. ACCESS TO PROTECTED MATERIAL

5 4.1 General: A record shall be made of the names of the persons to whom
 6 disclosure of Protected Material is made (other than to Counsel). All Protected Material shall be
 7 held in the custody and control of Counsel for the Receiving Party.

8 4.2 Access to Confidential Information: In the absence of written permission
 9 from the Producing Party or any order of the Court, any Confidential Information produced in
 10 accordance with the provisions of paragraph 3.1 above shall be used solely for purposes of the
 11 above-captioned litigation between the parties hereto, and shall not be disclosed to or discussed with
 12 any person other than (a) Counsel for the Receiving Party including necessary support personnel of
 13 such Counsel and court reporters taking testimony involving such Confidential Information and their
 14 support personnel; (b) employees of the Receiving Party whose review of such information is
 15 required for the conduct of the above-entitled litigation; (c) Independent Experts; and (d) the
 16 individual who authored, prepared, or who by sworn testimony can be shown to have received the
 17 information before this lawsuit commenced. The name, affiliation and credentials of each
 18 Independent Expert must be disclosed to the Producing Party prior to his or her review of the
 19 Confidential Information as provided in paragraph 5.1. Nothing contained in this Order shall affect
 20 the right of the Producing Party to disclose to anyone Confidential Information that it has designated.

21 4.3 Access to Attorneys' Eyes Only Information: In the absence of written
 22 permission from the Producing Party or an order of the Court, any Attorneys' Eyes Only Information
 23 produced in accordance with the provisions of paragraph 3.2 above shall be used solely for purposes
 24 of the above-captioned litigation between the parties hereto, and shall not be disclosed to or
 25 discussed with any person other than (a) Counsel for the Receiving party, including necessary
 26 support personnel of such Counsel and court reporters taking testimony involving such Attorneys'
 27 Eyes Only Information and their supported personnel; (b) Independent Experts; and (c) the

1 individual who authored, prepared, or who by sworn testimony can be shown to have received the
 2 information before this lawsuit commenced. The name, affiliation, and credentials of each
 3 Independent Expert must be disclosed to the Producing Party prior to his or her review of the
 4 Attorneys' Eyes Only Information as provided in paragraph 5.1. Under no circumstances shall
 5 Attorneys' Eyes Only information be made available to any other employee, manager, director,
 6 attorney, agent or independent contractor of the Receiving Party, except as stated in this paragraph.
 7 Nothing contained in this Order shall affect the right of the Producing Party to disclose to anyone
 8 Attorneys' Eyes Only Information that is has designated.

9 5. Custody of Protected Material: All documents containing information
 10 designated Confidential or Attorneys' Eyes Only and notes or other records regarding that
 11 information shall be maintained in the custody of Counsel for the parties, and no partial or complete
 12 copies thereof containing Protected Material shall be retained by anyone else at any location other
 13 than an office of Counsel not on the premises of Party, except that Independent Experts may retain
 14 documents on a temporary basis for purpose of study, analysis, and preparation of this case at offices
 15 that are not on the premises of a Party. A person who removes Protected Material from the office of
 16 Counsel shall maintain it in a manner that limits access to qualified persons and shall record in
 17 writing the access of each person by time, date and name except as provided in Paragraph 3.3
 18 regarding non-paper media.

19 5.1 Independent Experts: Subject to the provisions of this Order, Protected
 20 Material may be disclosed to an Independent Expert only if that Independent Expert has agreed in
 21 writing to be bound by this Order, and has certified that the prospective Independent Expert is not a
 22 competitor of any Party to these actions, or a consultant for, or employed by, such competitor with
 23 respect to the specific subject matter of this case. This certification shall be in the form attached
 24 hereto as Appendix B, which Counsel shall provide to each and every Producing Party. In addition,
 25 before disclosure can be made to any prospective Independent Expert, Counsel for the receiving
 26 party shall (a) identify the prospective Independent Expert to Counsel for the Producing Party whose
 27 Protected Material it proposes to show to the prospective Independent Expert, and (b) provide a

1 copy of the prospective Independent Expert's current resume, supplemented if necessary to provide a
 2 brief description of the prospective Independent Expert's business, qualifications, and past and
 3 present affiliations. The notified Producing Party shall have five (5) business days from their receipt
 4 of the notice and accompanying certification to deliver to the notifying Party its good faith written
 5 objections to the prospective Independent Expert, if any. Absent timely objections, disclosure to the
 6 prospective Independent Expert shall be deemed approved. Upon timely objection, disclosure to the
 7 prospective Independent Expert shall not be made. If the notifying Party objects to the Producing
 8 Party's written objections, it shall so inform the Producing Party in writing, within five (5) business
 9 days of receipt of the written objections of its reasons for objecting. The prospective Independent
 10 Expert shall then be deemed approved after five (5) business days from receipt of the notifying
 11 Party's timely written objections, unless the Producing Party moves for relief from the court, or the
 12 parties otherwise agree. Once a motion is filed, disclosure shall not occur until the issue is decided
 13 by the court.

14 5.2 Acknowledgement of Protective Order: Before obtaining access to any
 15 Protected Material covered by this Protective Order, any person, except for Counsel, who is
 16 permitted to have access to Protected Material under this Protective Order must signify assent to the
 17 terms of this Protective Order by executing the acknowledgement attached as Appendix A (or
 18 Appendix B, for Independent Experts), indicating that they read and understood this protective order
 19 and agree to be bound by its terms.

20 6. HANDLING OF PROTECTED MATERIAL

21 6.1 Filing Protected Material with the Court: In the event that any Confidential
 22 or Attorneys' Eyes Only Information is included with, or the contents thereof are in any way
 23 disclosed in any pleading, motion, deposition transcript or other paper filed with the Clerk of this
 24 Court, the Confidential or Attorney's Eyes Only document shall be filed and kept under seal by the
 25 Clerk until further order of this Court. Any Protected Material filed under seal shall be filed in
 26 sealed envelopes upon which shall be endorsed the title of this action, an identification of the nature
 27 of the contents of such sealed envelope, the name of the Party filing the materials, the words

1 "CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER," or "CONFIDENTIAL,
 2 ATTORNEYS' EYES ONLY—SUBJECT TO PROTECTIVE ORDER," and a statement
 3 substantially in the following form: "This envelope contains documents subject to a Protective Order
 4 entered in this action. It is not to be opened nor the contents thereof to be displayed, revealed or
 5 made public, except, by order of the Court." No such sealed envelope shall be opened by anyone
 6 other than Court personnel, absent an order from the Court identifying by name the person or
 7 persons who may have access to the sealed material and specifically designating which portions of
 8 the sealed file may be revealed.

9 6.2 Working Copies: Nothing herein shall restrict a qualified recipient,
 10 subject to the provisions of paragraph 3.4 from: (a) making working copies, abstracts, digests and
 11 analyses of such information for use in connection with this action between the parties to the above-
 12 entitled litigation or (b) converting or translating such information into machine-readable form for
 13 incorporation in a data retrieval system in connection with this action, provided that access to such
 14 information, in whatever form stored or reproduced, shall be limited to qualified recipients.

15 6.3 Inadvertent Disclosure of Protected Material: If a party through
 16 inadvertence produces Confidential or Attorneys' Eyes Only Information without labeling or
 17 marking or otherwise designating it as such in accordance with the provisions of this Protective
 18 Order, the Producing party may give written notice to the Receiving Party that the document or thing
 19 produced is deemed Confidential or Attorneys' Eyes Only and should be treated as such in
 20 accordance with the provisions of this Protective Order. The Receiving Party must treat such
 21 documents and things with the noticed level of protection from the date such notice is received.
 22 Disclosure, prior to the receipt of such notice of such information, to persons not authorized to
 23 receive such information shall not be deemed a violation of this Protective Order.

24 6.4 Examination and Testimony Regarding Protected Material:

25 (a) A Party or present employee of a Party may be examined and may
 26 testify concerning all Confidential and Attorneys' Eyes Only Information produced by that Party;

(b) A former employee of a Party may be examined and may testify concerning all Confidential and Attorneys' Eyes Only Information produced by that Party which pertains to the period of his employment and prior thereto.

6.5 Designation of Transcript: Any transcript containing Confidential or Attorneys' Eyes Only Information not previously properly designated shall be designated as containing such information within thirty (30) days of receipt of the transcript by the Producing Party; absent such designation, the transcript shall not be subject to this Protective Order.

6.6 Request for Production in Unrelated Legal Proceedings: In the event any person or party having possession, custody, or control of any Protected Material receives a subpoena or other process or order to produce such information from an entity or person who is not a party to this action, such person or party shall (a) notify by mail the counsel of record of the party claiming such Confidential or Attorneys' Eyes Only treatment of the document sought by such subpoena or other process or order, (b) furnish the counsel of record with a copy of said subpoena or other process or order, and (c) cooperate with respect to all reasonable procedures sought to be pursued by the party whose interests may be affected. The party asserting the Confidential or Attorneys' Eyes Only treatment shall have the burden of defending against such subpoena, process or order. The person or party receiving the subpoena or other process or order shall be entitled to comply with it except to the extent that the party asserting the Confidential or Attorneys' Eyes Only treatment is successful in obtaining an order modifying or quashing the subpoena or other process or order.

7. DESIGNATION NOT DETERMINATIVE OF STATUS

There is no obligation to challenge the propriety of a Confidential or Attorneys' Eyes Only designation at the time made, and a failure to do so shall not preclude a subsequent challenge thereto. All challenges to the propriety of a Confidential or Attorneys' Eyes Only designation shall first be made to the Propounding Party in writing by letter or other document identifying with specificity the material challenged. Within seven (7) days of such a challenge, the designating party shall substantiate the basis for such designation in writing, or forever waive the protections of this Protective Order with respect to the challenged information. Such challenges shall be resolved in

1 good faith on an informal basis if possible. If the dispute cannot be resolved, the party challenging
2 the designation may seek appropriate relief from this Court. The burden of persuasion or proof shall
3 be on the party claiming confidentiality.

4 **8. RIGHT TO FURTHER RELIEF**

5 Nothing in this Protective Order shall abridge the right of any person to seek judicial
6 review or to pursue other appropriate judicial action to seek a modification or amendment of this
7 Protective Order.

8 **9. AMENDMENT**

9 This Protective Order may not be amended without agreement of Counsel for all
10 Parties in the form of a written stipulation filed with the Court or by an order of the Court after a
11 duly noticed motion.

12 **10. RIGHT TO ASSERT OTHER OBJECTIONS**

13 This Protective Order shall not be construed as waiving any right to assert a claim or
14 privilege, relevance, overbreadth, burdensomeness or other grounds for not producing Discovery
15 Material called for, and access to such Discovery Material shall be only as provided for by separate
16 agreement of the parties or by the Court.

17 **11. FINAL DISPOSITION**

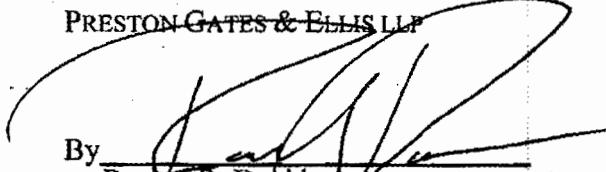
18 Within sixty (60) days after final termination of this action, each Party shall assemble
19 all documents and things furnished and designated by any other Party as containing Confidential or
20 Attorneys' Eyes Only Information including materials provided and subject to section 3.4 and such
21 materials provided to Independent Experts and shall either (i) return such documents and things to
22 the Propounding Party, or (ii) destroy the documents and things and provide a certificate of
23 destruction. Counsel for each party shall be entitled to retain all pleadings, motions, papers, legal
24 memoranda, correspondence and work product.

12. TERMINATION AND SURVIVAL OF OBLIGATIONS

1
2
3
4
5
No restriction imposed by this Protective Order may be terminated, except by a
written stipulation executed by counsel of record for the Propounding Party, or by an order of this
Court for good cause shown. The termination of this action shall not automatically terminate the
obligations specified in this Protective Order.

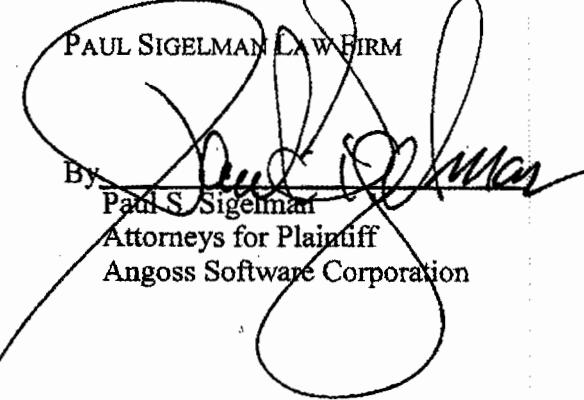
6 DATED: March 7, 2006

PRESTON GATES & ELLIS LLP

7
8 By 
9 Rachel R. Davidson
10 Attorneys for Defendant
11 Siebel Systems, Inc.

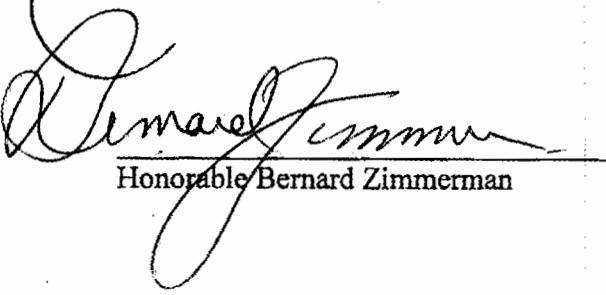
12 DATED: March 7, 2006

PAUL SIGELMAN LAW FIRM

13
14 By 
15 Paul S. Sigelman
16 Attorneys for Plaintiff
17 Angoss Software Corporation

18 IT IS SO ORDERED.

19 Dated 1 April 06

20 
21 Honorable Bernard Zimmerman

APPENDIX A
CONFIDENTIALITY AGREEMENT

I, _____, hereby acknowledge that:

1. I have read the Protective Order entered in the action presently pending in
5 United States District, Court Northern District of California entitled *Angoss Software Corporation v.*
6 *Siebel Systems, Inc.*
7. I understand the terms of the Protective Order;
8. I agree, upon threat of penalty of contempt and other civil remedies, to be
9 bound by its terms; and
10. I irrevocably submit my person to the jurisdiction of the Northern District of
11 California for the limited purpose of securing compliance with the terms and conditions of the
12 Protective Order.

13 DATED:

14 _____
15 Signature

16 _____
17 Name

18 _____
19 Present Employer

20 _____
21 Title/ Occupation

22 _____
23 Address

24 _____
25 City State Zip

26 _____
27 Telephone Number

APPENDIX B
CONFIDENTIALITY AGREEMENT
(For Independent Experts)

I, _____, hereby acknowledge that:

1. I have read the Protective Order entered in the action presently pending in
5 United States District, Court Northern District of California entitled *Angoss Software Corporation v.*
6 *Siebel Systems, Inc.*

7 2. I represent that I am not employed by any competitor to the parties to this action, nor
8 am I employed as a consultant to any of these parties;

9 3. I understand the terms of the Protective Order;

10 4. I agree, upon threat of penalty of contempt and other civil remedies, to be
11 bound by its terms; and

12 5. I irrevocably submit my person to the jurisdiction of the Northern District of
13 California for the limited purpose of securing compliance with the terms and conditions of the
14 Protective Order.

15 DATED:

16 _____
17 Signature

18 _____
19 Name

20 _____
21 Present Employer

22 _____
23 Title/ Occupation

24 _____
25 Address

26 _____
27 City State Zip

28 _____
29 Telephone Number